

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

22-CR-84-RJA

v.

BRANDON LOYD,

**STATEMENT WITH RESPECT TO
SENTENCING FACTORS**

Defendant.

FRANK R. PASSAFIUME, ESQ., affirms under penalty of perjury that:

1. I am an attorney with the Federal Public Defender's Office located at 300 Pearl Street, Suite 200, Buffalo, New York 14202, and I represent the defendant, Brandon Loyd, in the instant matter.

2. I make this Affirmation in accordance with U.S.S.G. § 6A1.2, and hereby state that I reviewed the Pre-Sentence Report with the defendant.

3. The defendant adopts all necessary facts in the PSR that will affect sentencing.

See Fed. R. Crim. P. 32(i)(3)(B); see also United States v. Petri, 731 F.3d 833 (9th Cir. 2013) ("objections to the presentence report that make a difference in the formulation of an appropriate sentence"). However, the defendant does lodge one objection and disagrees with two characterizations in the PSR.

4. The defendant objects to the facts contained in paragraph 66, which describes an alleged incident that occurred in high school. Specifically, he denies making any verbal threats

to the school and to the teacher. The defendant advises that, during the subsequent criminal proceeding, it was determined by the presiding Buffalo City Court Judge that the defendant did not make any such threats, which prompted the reduced plea offer and youthful offender adjudication.

5. The defendant disagrees with the characterization and some facts set forth in paragraph 29 regarding his "Institutional Adjustment." Specifically, the PSR recounts that the defendant "escaped from [the Buffalo Halfway House] until he was located and arrested by U.S. Marshals on December 24, 2021." The defendant advises, and the BOP Apprehension Report confirms, that he sought guidance from the U.S. Marshals on how to surrender and subsequently surrendered himself to the Marshals on December 24, 2021. This was not a situation where the Marshals located the defendant while he was attempting to hide or evade. The defendant voluntarily returned to custody without incident.

6. The defendant disagrees with paragraph 60, which he believes implies that he has no ongoing medical issue. According to the most recent medical records from Western New York Urology, the defendant suffers from testicular microlithiasis. This is a rare condition in which small clusters of calcium form in the testicles. It has caused the defendant excruciating pain at times and constant discomfort. It has even led to the passing of calcium stones. Unfortunately, there is no cure or treatment for this condition, and it will plague the defendant the rest of his life requiring routine monitoring as this condition causes an increased risk to develop testicular cancer.

7. The defendant reserves the right to present all relevant mitigating evidence at sentencing to advocate for a sentence that is sufficient, but not greater than necessary, to accomplish the goals of sentencing.

DATED: December 15, 2023
Buffalo, New York

Respectfully submitted,

/s/Frank R. Passafiume

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